

Message Text

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TO AMEMBASSY LUSAKA IMMEDIATE

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TAGS:SHUM PFOR SU ZA

SUBJECT:HUMAN RIGHTS REPORT FOR CONGRESS

REF: STATE 22819

I. UNLESS YOU PERCEIVE OBJECTION, PLEASE PASS FOLLOWING TO
GOVERNMENT PER REFTEL.

ZAMBIA IS A ONE-PARTY STATE WITH A STRONG PRESIDENCY
AND EXTENSIVE CONSTITUTIONAL GUARANTEES OF HUMAN RIGHTS.
TO SOME EXTENT, THESE GUARANTEES HAVE BEEN IMPAIRED OR
SUSPENDED BY THE CONTINUING EXISTENCE OF A STATE OF
EMERGENCY IN ZAMBIA, WHICH IS DEEMED NECESSARY BY THE
GOVERNMENT DUE TO THE EXTERNAL PRESSURES RESULTING FROM
THE ARMED STRUGGLES FOR MAJORITY RULE AND SELF-DETERMIN-
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ACTION IN NEIGHBORING RHODESIA AND NAMIBIA.

I. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUD-
ING FREEDOM FROM:

A. TORTURE

WE HAVE NO EVIDENCE OF TORTURE PRACTICED BY THE ZAMBIAN AUTHORITIES, ALTHOUGH BEATINGS AND OTHER MALTREATMENT

WERE ALLEGED IN THE CASE OF RHODESIAN NATIONALISTS DETAINED FOLLOWING A PERIOD OF INTERNECINE VIOLENCE IN 1975.

B. CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IS NOT PRACTICED TO OUR KNOWLEDGE IN ZAMBIA, ALTHOUGH ZAMBIAN PRISONS ARE ACKNOWLEDGED TO BE CROWDED AND UNSANITARY. HEALTH CARE FOR PRISONERS MAY NOT ALWAYS BE ADEQUATE, ALTHOUGH IT IS AVAILABLE IN EMERGENCIES.

C. ARBITRARY ARREST OR IMPRISONMENT

UNDER THE STATE OF EMERGENCY WHICH IS CONSIDERED TO HAVE BEEN IN EFFECT SINCE INDEPENDENCE, THE PRESIDENT OF ZAMBIA HAS WIDE DISCRETION TO DETAIN OR RESTRICT THE MOVEMENTS OF INDIVIDUALS. THOSE SO DETAINED ENJOY CERTAIN RIGHTS, AMONG THEM THE RIGHT TO RECEIVE NOTICE OF THE REASON FOR DETENTION, PUBLICATION OF THE FACT OF DETENTION, ACCESS TO COUNSEL, AND THE RIGHT TO SEEK LIMITED OFFICIAL USE

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JUDICIAL REVIEW OF THE DETENTION ORDER AFTER ONE YEAR. HOWEVER, HABEAS CORPUS IS NOT AVAILABLE TO PERSONS DETAINED UNDER PRESIDENTIAL ORDER, AND THE DETAINING AUTHORITY IS NOT OBLIGED TO ACCEPT THE RECOMMENDATIONS OF THE JUDICIAL REVIEW TRIBUNAL. THE ZAMBIAN COURTS HAVE CONSISTENTLY UPHELD THE PRESIDENTIAL DETENTION AUTHORITY.

THE PRESIDENT'S DETENTION POWERS HAVE BEEN USED IN RECENT YEARS AGAINST POLITICAL OPPONENTS, UNRULY RHODESIAN NATIONALISTS AND DISSIDENT NAMIBIANS, COMMON CRIMINALS, STRIKING UNIVERSITY STUDENTS AND PROFESSORS, AND VIOLATORS OF CURRENCY CONTROL REGULATIONS. IN MOST CASES, DETAINEES ARE EITHER RELEASED OR FORMALLY CHARGED ONCE INVESTIGATION OF THEIR CASES HAS BEEN COMPLETED, BUT A FEW HAVE BEEN CONTINUOUSLY DETAINED FOR YEARS. THERE IS NO RELIABLE ESTIMATE OF THE NUMBER OF PERSONS CURRENTLY UNDER PRESIDENTIAL DETENTION ORDER IN ZAMBIA, BUT IT IS PROBABLY SOMEWHAT BELOW THE 200 THOUGHT TO HAVE BEEN DETAINED AS OF MID-1976.

D. DENIAL OF FAIR PUBLIC TRIAL

THE CITIZEN'S RIGHT TO A FAIR PUBLIC TRIAL IS GENERAL-
LY OBSERVED IN ZAMBIA, ALTHOUGH THIS IS NOT TRUE IN
THE CASE OF PRESIDENTIAL DETAINEES. IN CASES COMING
TO COURT, THE FAMILIAR SAFEGUARDS OF ENGLISH COMMON
LAW ARE PROVIDED, AND LAWYERS HANDLING EVEN SENSITIVE
POLITICAL CASES HAVE EXPRESSED THEIR CONTINUING CONFIDENCE
IN THE INDEPENDENCE OF THE ZAMBIAN JUDICIARY. INDIVIDUALS
WHO CONSIDER THAT THEIR RIGHTS HAVE BEEN OR ARE LIKELY TO
BE CONTRAVENED THROUGH UNLAWFUL ARREST OR DETENTION MAY
APPLY TO THE HIGH COURT FOR REDRESS; IN 1972 SEVERAL
FORMER POLITICAL DETAINEES SUCCESSFULLY COLLECTED DAMAGES
FOR ASSAULT AND FALSE IMPRISONMENT.

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E. INVASION OF THE HOME

EXCEPT IN EXTRAORDINARY POLITICAL CASES, THE SANCTITY
OF THE HOME IS OBSERVED IN ZAMBIA.

2. GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT OF SUCH VITAL NEEDS AS FOOD, SHELTER, HEALTH CARE AND EDUCATION

IN TIMES OF HIGH COPPER PRICES, ZAMBIA IS ONE OF THE
MORE FORTUNATE AFRICAN COUNTRIES, WITH THE RESOURCES
TO PERMIT DELIVERY OF SUBSTANTIAL MEDICAL, EDUCATIONAL
AND SOCIAL SERVICES TO THE PUBLIC. THE GOVERNMENT'S
POLICIES ARE HEAVILY WEIGHTED TOWARD THE WELFARE OF
THE CITIZEN.

ZAMBIA'S DEPENDENCE ON COPPER HAS MEANT THAT WHEN THE
WORLD PRICE IS DEPRESSED (AS IT HAS BEEN SINCE 1975), THE
ZAMBIAN GOVERNMENT'S ABILITY TO PROVIDE BASIC SERVICES IS
SUBSTANTIALLY IMPAIRED. PRESIDENT KAUNDA HAS RECENTLY
THROWN HIS FULL PRESTIGE BEHIND EFFORTS TO DIVERSIFY THE
ZAMBIAN ECONOMY, PUTTING PARTICULAR EMPHASIS ON DEVELOPING
ZAMBIA'S SIGNIFICANT AGRICULTURAL POTENTIAL.

THERE IS NO EVIDENCE THAT OFFICIAL CORRUPTION DIVERTS
SIGNIFICANT RESOURCES AWAY FROM DEVELOPMENT EFFORTS OR
FROM THE POOR MAJORITY. PRESIDENT KAUNDA HAS ACTIVELY
SOUGHT TO COMMUNICATE HIS OWN PERSONAL HONESTY TO GOVERN-
MENT OFFICIALS, AND HAS ACTED FORCEFULLY AGAINST VIOLATORS
OF THE PUBLIC TRUST.

3. RESPECT FOR CIVIL AND POLITICAL LIBERTIES, INCLUDING:

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A. FREEDOM OF THOUGHT, SPEECH, PRESS, RELIGION AND
ASSEMBLY

FREEDOM OF THOUGHT, EXPRESSION AND ASSEMBLY ARE ALL
CIRCUMSCRIBED BY THE CONSTITUTIONAL BAN ON ALL POLITICAL
ACTIVITY OUTSIDE THE ONE-PARTY STRUCTURE (SEE PARAGRAPH 3C
BELOW).

ALTHOUGH BOTH LUSAKA NEWSPAPERS ARE CONTROLLED, ONE BY THE
GOVERNMENT AND THE OTHER BY THE SOLE LEGAL POLITICAL
PARTY, "CONSTRUCTIVE" MEDIA CRITICISM OF GOVERNMENT
PERFORMANCE IS PERMITTED, AND HAS BEEN SHARP AND WIDE-
SPREAD FOR THE PAST YEAR, PARTICULARLY IN REFERENCE TO THE
GOVERNMENT'S ECONOMIC POLICIES. CRITICISM OF THE HEAD OF
STATE AND OF THE BASIC NATIONAL PHILOSOPHY, HUMANISM, IS
NOT ALLOWED. CRITICISM OF THE PRESIDENT IS PUNISHABLE BY
FINE OR IMPRISONMENT. CENSORSHIP OF FOREIGN PUBLICATIONS
EXISTS BUT IS NOT STRINGENT.

FREEDOM OF RELIGION IS CONSTITUTIONALLY GUARANTEED AND IS
STRONGLY SUPPORTED BY PRESIDENT KAUNDA. THE EXCEPTIONS
HAVE BEEN THE LUMPA SECT, WHICH WAS BANNED IN 1964 FOLLOW-
ING A SERIES OF BLOODY ANTI-GOVERNMENT RIOTS, AND ANOTHER
SMALL SECT BANNED FOR ALLEGED SEXUAL IMMORALITY. NO
SYSTEMATIC PERSECUTION OF THE CONTROVERSIAL JEHOVAH'S
WITNESSES HAS BEEN REPORTED IN ZAMBIA, ALTHOUGH ZAMBIAN
WITNESSES HAVE BEEN SUBJECT TO CONSIDERABLE PUBLIC
CRITICISM BY ZAMBIAN POLITICAL LEADERS, AND SOME LOCALIZED
HARASSMENT HAS UNDOUBTEDLY OCCURRED.

THE ZAMBIA COUNCIL OF TRADE UNIONS IS A RELATIVE-
LY MILITANT AND INDEPENDENT ORGANIZATION WHOSE MEMBER
UNIONS TAKE A STRONG STAND IN DEFENSE OF WORKERS'
INTERESTS.

B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY,
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FOREIGN TRAVEL AND EMIGRATION

AS NOTED ABOVE, THE PRESIDENT MAY, UNDER HIS EMERGENCY
POWERS, RESTRICT THE MOVEMENTS OF INDIVIDUALS WITHIN
ZAMBIA. THE GOVERNMENT ALSO RESERVES THE RIGHT TO
REFUSE OR WITHDRAW PASSPORTS AS A MEANS OF PREVENTING
FOREIGN TRAVEL BY INDIVIDUALS WHOSE ACTIVITIES

ABROAD ARE CONSIDERED NOT IN THE BEST INTERESTS OF ZAMBIA. FREEDOM TO EMIGRATE, HOWEVER, HAS NOT BEEN IMPAIRED BY THE GOVERNMENT.

C. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

UNDER THE 1973 CONSTITUTION, THE UNITED NATIONAL INDEPENDENCE PARTY (UNIP) IS DESIGNATED THE SOLE LEGAL PARTY IN ZAMBIA. CANDIDATES FOR POLITICAL OFFICE AT ANY LEVEL MUST BE MEMBERS OF UNIP, AND ARE SUBJECT TO "VETTING" FOR SUITABILITY AS CANDIDATES BY HIGHER PARTY AUTHORITY. IN ZAMBIA, THIS SYSTEM IS DESCRIBED AS "ONE-PARTY PARTICIPATORY DEMOCRACY," AND THE GOVERNMENT MAINTAINS THAT COMPETITION WITHIN THE ONE-PARTY FRAMEWORK (INCLUDING ELECTIONS WITH UNIVERSAL SUFFRAGE IN WHICH SECRECY OF THE BALLOT IS PROTECTED) GIVES ADEQUATE EXPRESSION TO THE WILL OF THE CITIZENRY.

IN 1971 SIMON KAPWEPWE, A FORMER CLOSE ASSOCIATE OF PRESIDENT KAUNDA, BROKE AWAY FROM UNIP TO FORM HIS OWN UNITED PROGRESSIVE PARTY (UPP). THE UPP WAS BANNED AND KAPWEPWE RUSTICATED IN FEBRUARY 1972, WHEN PRESIDENT KAUNDA ANNOUNCED THAT ZAMBIA WOULD BECOME A ONE-PARTY STATE. KAPWEPWE AND SEVERAL OF HIS SENIOR FOLLOWERS REJOINED UNIP IN SEPTEMBER, 1977, FORMALLY ENDING THE UPP LIMITED OFFICIAL USE

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SCHISM.

4. GOVERNMENT ATTITUDE AND RECORD REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

THE ZAMBIAN GOVERNMENT'S HUMAN RIGHTS RECORD HAS NOT BEEN THE TARGET OF INTENSIVE INVESTIGATION IN RECENT YEARS, AND THERE HAVE BEEN NO REQUESTS FOR OUTSIDE INVESTIGATIONS OF ALLEGED VIOLATIONS. AMNESTY INTERNATIONAL HAS CRITICIZED ZAMBIAN TREATMENT OF SOME RHODESIAN DETAINEES. THE GOVERNMENT HAS NOT RESPONDED PUBLICLY TO AI'S CRITICISM. VANCE

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